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09/840,469	04/23/2001	Rodger Williams	2400-667	1931

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EXAMINER

SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/840,469

Applicant(s)

WILLIAMS ET AL.

Examiner

Jeffrey A. Shapiro

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 4-9, 11-21 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-9, 11-21, and 28-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-9, 11-21, and 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finley et al. Finley et al discloses the following.

As described in Claims 1, 13, 14 and 20;

1. a plurality of displays (361) with associated input devices (see figure 8, element 360, for example);
2. a display controller (360) associated with said plurality of displays, said display controller comprising as follows;
  - a. communication electronics (361 and 363) for communicating with a server (380) running a control application (379);
  - b. a control system associated with said communication electronics and adapted to;
    - i. run browser applications (see col. 7, lines 1-10) for each of said plurality of displays;
    - ii. receive input from each of said input devices and provide the input to the control application (see abstract, for example);

- iii. receive instructions for said browser applications from the control application (see col. 8, lines 1-27);

As described in Claims 4 and 28;

- 3. said displays are mounted in a kiosk (note that one of the fuel dispensers (100) can be reasonably construed as a kiosk);
- 3a. said plurality of displays and said display controllers are associated with a kiosk; (Note that even the displays and controllers associated with the service manager (SM 300) are associated with the kiosk (fuel dispenser) because they are connected to said kiosk by a wire or other communications means.)

As described in Claims 5, 16 and 29;

- 4. a server (380) remote from said display controller and adapted to run said control application;

As described in Claims 6, 16 and 30;

- 5. said server is further adapted to run a web server application configured to provide content to the browser applications of the display controller (see col. 3, lines 27-31);

As described in Claims 7, 17 and 31;

- 6. said control application is adapted to process the input and provide certain of the instructions for a corresponding one of the browser applications (see col. 8, lines 12-15);

As described in Claims 8, 18 and 21;

7. said control application is adapted to provide certain of the instructions for a corresponding one of the browser applications based on events or instructions unrelated to the input (note, for example, that the SM300 controller “accumulates network-wide event information”—see col. 8, lines 1-27);

As described in Claims 9, 15 and 32;

8. for each of said browser applications, said control system is further adapted to provide a request for content from a web server based on the instructions;
9. receive content in response to the request;
10. display content on a corresponding one of said plurality of displays;

(Note that the SM300 controller “coordinates scheduled updates with the dispenser, for example. See col. 8, lines 1-27. Another example would be display of sale items as well as news and weather. See col. 6, lines 15-21.)

As described in Claims 1, 13, 14 and 20;

11. said display controller is assigned one Internet Protocol (IP) address and each of the browser applications is assigned a unique port associated with the IP address (see col. 6, lines 50-62);

As described in Claim 11;

12. said input devices include keys on at least one of said plurality of displays (see col. 6, lines 6-23);

As described in Claim 12;

13. said input devices include touch screen configuration for at least one of said plurality of displays (see col. 6, lines 6-23);

As described in Claim 13;

14. said communication electronics are wireless communications electronics adapted to provide wireless communications with the server (Note that figures 5-7 illustrate a phone line (POTS) which inherently may be accessed by wireless (cell) phone. Note also figure 14, which illustrates site manager (1401) as having a satellite dish labeled as "Hughes".)

As described in Claim 19;

15. effecting control of a peripheral at the first location with instructions from the second location (see col. 8, lines 1-27 and col. 3, lines 27-31);

As described in Claim 33;

15a. said input devices includes keys on at least one of said plurality of displays (see Finley, col. 1, lines 63-end and col. 2, lines 1-2, which describes that using keypads for special user inputs is well-known in the art);

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1, 14 and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Siefert. Siefert discloses the following.

As described in Claims 1, 14 and 20;

1. a plurality of displays (see figure 1c, for example, illustrating multiple personal computers (1) with associated input devices (computers necessarily have input devices);
2. a display controller (see col. 8, lines 40-45, noting that a GUI is a display controller) associated with said plurality of displays, said display controller comprising as follows;
  - a. communication electronics (note that computers operating on the internet, intranet or LAN necessarily use modems or other such communications electronics) for communicating with a server (see figure 1c) running a control application (see col. 8, lines 40-45);
  - b. a control system associated with said communication electronics and adapted to;
    - i. run browser applications (see figure 1) for each of said plurality of displays;
    - ii. receive input from each of said input devices and provide the input to the control application (see abstract, for example);

- iii. receive instructions for said browser applications from  
the control application (abstract);

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1, 4-9, 11-21, and 28-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-27 of U.S. Patent No. 6,052,629. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both claim a controller based on web or html architecture for controlling applications and functions at a remote fuel dispenser with display located remotely from a server.

7. Claims 1, 4-9, 11-21, and 28-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-39 of U.S. Patent No. 6,176,421. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both claim a controller based on web



or html architecture for controlling applications and functions at a remote fuel dispenser with display located remotely from a server.

***Response to Arguments***

8. Applicant's arguments filed 2/19/03 have been fully considered but they are not persuasive. Applicant asserts that the "kiosks" of Applicant's system are uniquely addressed by a particular TCP/IP address. TCP/IP is a standard protocol used for connecting to the internet. Both Siefert and Finley et al describe connections to the internet. Applicant's claims, as currently written, and reasonably broadly construed, are open to the interpretation that it would be inherent that a unique TCP/IP address would be required to allow a "kiosk", embodied, for example, in Finely, by a fuel dispenser, to be connected to the internet. The site manager is also extensively described as being hooked to the internet. The site manager of Finley describes on col. 8, lines 1-27 that network connectivity is provided to individual dispensers. At the very least, it would have been obvious to provide TCP/IP addresses to each such dispenser so as to optimize downloading of current software versions and dispenser presentation content. It is unclear why someone ordinarily skilled in the art would not provide such backwards and forwards compatibility so that software downloaded from the internet does not become corrupted when passed to a fuel dispenser or point of sale.

Regarding Pots lines, they still represent phone lines, which have connections to the phone communications lines that are readily available to all phones. As such, it would, at the very least, be obvious for one ordinarily skilled in the art to provide a

wireless connection to such a POTS line or to access a POTS line through the normal wireless cell phone network to the particular phone address.

Therefore, Claims 1-9, 11-21 and 28-33 are rejected.

Applicant's are encouraged to contact the Examiner should there be any further questions or concerns.

***Conclusion***


**9. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


**10.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone numbers for the organization where this application or proceeding is assigned are (703)306-4195 for regular communications and (703)306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



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Art Unit 3653



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May 5, 2003